



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNRL-S, MNDL-S, MNDCL-S, FFL

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, made on May 23, 2022. The Landlord applied for the following relief, pursuant to the Residential Tenancy Act (the Act):

- a monetary order for unpaid rent or utilities;
- a monetary order for the cost to repair damage caused during the tenancy;
- a monetary order for compensation for monetary loss or other money owed;
- an order permitting the Landlord to retain the security deposit held; and
- an order granting recovery of the filing fee.

The Landlord attended the hearing on his own behalf. KD attended the hearing on behalf of the Tenants and was accompanied by TR, an advocate. Although DC initially attended the hearing as a witness for the Tenants, he disconnected and was not recalled by KD. All in attendance provided affirmed testimony.

The Landlord testified that the Notice of Dispute Resolution Proceeding package was served on the Tenants by registered mail. KD acknowledged receipt. Therefore, pursuant to section 71 of the Act, I find these documents were sufficiently served for the purposes of the Act.

KD testified that the documentary evidence submitted consisted only of a letter to the Landlord but no other documentary evidence. KD testified the letter was served on the Landlord by attaching a copy to the Landlord's door on January 29, 2023 and by registered mail on January 30, 2023. As this document was not served in accordance with Rule of Procedure 3.15, I have not considered it further in this decision.

The parties were provided with a full opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Preliminary and Procedural Matters

During the hearing the parties referred to a Condition Inspection Report, a copy of which was not submitted into evidence. As both parties had the Condition Inspection Report before them, I provided the parties with the opportunity to submit copies to the Residential Tenancy Branch Dispute Management System after the hearing. The parties were advised that they were to make no notations on their copies. Both parties were able to upload a copy.

Issues to be Decided

1. Is the Landlord entitled to a monetary order for unpaid rent or utilities?
2. Is the Landlord entitled to a monetary order for the cost to repair damage caused during the tenancy?
3. Is the Landlord entitled to a monetary order for compensation for monetary loss or other money owed?
4. Is the Landlord entitled to an order permitting him to retain the security deposit held?
5. Is the Landlord entitled to an order granting recovery of the filing fee?

Background and Evidence

The parties agreed the tenancy began on October 1, 2012. Although the Landlord was granted an order of possession on April 6, 2022, effective on June 30, 2022, the parties agreed that the Tenants vacated the rental unit on or about May 13, 2022. The parties agreed that rent at the end of the tenancy was \$1,852.00 per month due on the first day of each month. The parties agreed the Tenants paid a security deposit of \$775.00, which the Landlord holds.

The Landlord's application discloses a total claim for \$17,805.93, which is particularized in the application and set out on a Monetary Order Worksheet dated May 22, 2022.

First, the Landlord claims \$3,704.00 for unpaid rent due on May 1 and June 1, 2022. The Landlord testified that the order of possession granted on April 6, 2022 was effective on June 30, 2022. However, the Tenants vacated without notice on or about May 13, 2022. The Landlord testified that he was unable to re-rent the unit until July 1, 2022.

In reply, KD acknowledged that rent was not paid as alleged. He testified that it was difficult to find alternative accommodation and the he and his family were scrambling when something came up.

Second, the Landlord claims \$178.25 to replace a broken bathroom light cover. The Landlord testified the cover was damaged and could not be replaced so the entire fixture needed to be replaced. A receipt was submitted into evidence.

In reply, the Tenant's advocate referred to the Condition Inspection Report and noted that it refers to missing bulbs only in the main bathroom and ensuite, not to a damaged cover.

Third, the Landlord claims \$107.19 to replace floor registers. The Landlord suggested the Tenants' children may have damaged them and that they were subsequently secured by screwing them to the floor. Photographs depicting damage and a receipt for replacements were submitted into evidence.

In reply, KD testified that the floor registers were cracked and falling apart and that some were drilled into place.

Fourth, the Landlord claims \$239.00 to replace a broken microwave. The Landlord submitted a photograph depicting a microwave with a broken handle. The Landlord also testified that he could not get the microwave to work. The Landlord testified that the microwave was the third replacement made during the tenancy. A receipt for the purchase was submitted in support.

In reply, KD testified that he disagreed with the cost of the microwave. He acknowledged the Landlord replace a couple of microwaves during the tenancy but suggested this was due to electrical and humidity issues.

Fifth, the Landlord claimed \$145.51 to replace bathroom lightbulbs. The Landlord testified that the correct bulbs were installed at the beginning of the tenancy. However, at the end of the tenancy the bulbs were missing or were incorrect (100w bulbs rather than 60w bulbs). The Landlord submitted a photograph of a mirror with missing bulbs and receipts for the purchases in support.

In reply, KD acknowledged that all of the lights were there when his family moved in but that they were too bright. As a result, he took some of them out and didn't replace.

Sixth, the Landlord claimed \$53.80 to replace a damages smoke detector. In support, the Landlord submitted a photograph depicting the base of a smoke detector attached to the ceiling with no cover. The Landlord also submitted a receipt for the purchase.

In reply, KD testified the cover was never on the smoke detector and that it still functions.

Seventh, the Landlord claimed \$96.27 to replace doorknobs on the front door and garage door. Photographs depicting bent and damaged doorknobs were submitted in support. The Landlord also submitted a receipt for the purchase.

In reply, KD testified that the doorknobs were likely original to the rental property which was built in or about 1995 and were of poor quality. KD acknowledged the doorknobs were worn but still worked.

Eighth, the Landlord claimed \$279.41 to replace kitchen blinds. The Landlord testified it appears there was food on them and that it could not be cleaned. Photographs depicting the blinds and a receipt for the purchase were submitted in support.

In reply, KD testified there was an "accident" when his family was moving out and that he forgot to wash them. KD also stated the Landlord told him during the move-out condition inspection that he wants new blinds, not cleaned. KD suggested the blinds were likely original to the house.

Ninth, the Landlord claimed \$31.90 to replace four bulbs on the ceiling fan above the entry. The Landlord testified the Tenants had again used 100w bulbs in a 60w socket. A receipt for the purchase was submitted into evidence.

In reply, KD acknowledged he may have inadvertently put in the wrong bulbs as alleged by the Landlord, but that they all worked.

Tenth, the Landlord claimed \$147.06 to replace the kitchen faucet. The Landlord testified that the handle was barely hanging on and when he investigated further he found additional damage. A receipt for the purchase was submitted in support.

In reply, KD testified that the handle as loose and needed tightening, but that it still worked.

Eleventh, the Landlord claimed \$430.00 for carpet cleaning but acknowledged the carpet was not cleaned.

Twelfth, the Landlord claimed \$3,923.92 to replace carpet in the rental unit. He testified that the carpet was replaced six or eight months before the tenancy began. The Landlord also referred to the move-in condition inspection which referred only to two stains in the carpet at the beginning of the tenancy. The Landlord testified that the amount claimed is only half of his cost to replace the carpet. Photographs of the carpet and the sub-floor were submitted into evidence. The Landlord testified that these photographs depict a lot of moisture and resultant mold. A receipt for the carpet replacement was submitted into evidence in support.

In reply, RT disputed the Landlord's allegation that there was mold under the carpet and suggested it looked like regular wear in high traffic areas.

KD testified there was no moisture in those areas during the move-out condition inspection and that there is insufficient evidence of mold.

Thirteenth, the Landlord claimed \$1,500.00 to repair eleven nail holes and water damage in the oak kitchen cabinets. Photographs were submitted in support. However, the Landlord confirmed the damage was not repaired and that the cabinets were not replaced because of the amount of work required and the cost.

In reply, KD testified that he did not put holes in the cabinets but that they were there when the Tenants moved in.

Fourteenth, the Landlord claimed \$36.17 related to service of documents on the Tenants. During the hearing, the Landlord was advised that service costs are generally not recoverable because there are less costly methods of service, which he accepted.

Fifteenth, the Landlord claimed \$9.07 to replace potting soil he stated was present at the beginning of the tenancy. A receipt was submitted in support.

In reply, KD testified that during the tenancy the Landlord had to paint the boxes so the Tenants took out the potting soil and thereafter used planters to save the boxes.

Sixteenth, the Landlord claimed \$124.25 for the cost to replace vertical blinds in the living room. In support, the Landlord submitted a photograph of metal horizontal blinds installed in the window. The Landlord also submitted there was a valance above the window which was removed.

In reply, KD testified that he did not install the metal blinds but that they were always there. KD testified that the valance fell off during the tenancy.

Seventeenth, the Landlord claimed \$80.13 for a bug screen repair kit. The Landlord testified that he purchased the kit and repaired the screens himself. The Landlord submitted a receipt for the purchase in support.

In reply, KD acknowledged there were a couple of slits that were approximately 1" long but that they had been there at the beginning of the tenancy.

Eighteenth, the Landlord claimed \$6,000.00 to repaint the interior. The Landlord testified that the Tenants repainted the rental unit without authorization, changing the colour. The Landlord testified that the cost was incurred but that he was unable to provide a receipt because he paid in cash. The Landlord suggested this was the Tenants' fault because he had a contractor ready to begin on July 1, 2022. However, when the Tenants vacated without notice he was unable to get someone in on short notice. The Landlord submitted photographs of the walls in support.

In reply, KD acknowledged that he painted some of the interior of the rental unit but did not change the colour significantly. He testified that the paint had aged and that the colour he selected was easy to paint over.

Nineteenth, the Landlord claimed \$500.00 for depreciation due to spray-painted graffiti on the interior of the garage door.

In reply, KD testified he does not know why someone would spray-paint the interior of the garage door. He stated that it was present at the beginning of the tenancy.

Finally, the Landlord claims \$100.00 in recovery of the filing fee.

Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 67 of the Act empowers the director to order one party to pay compensation to the other if damage or loss results from a party not complying with the Act, regulations or a tenancy agreement.

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided for in sections 7 and 67 of the Act. An applicant must prove the following:

1. That the other party violated the Act, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss because of the violation;
3. The value of the loss; and
4. That the party making the application did what was reasonable to minimize the damage or loss

In this case, the burden of proof is on the Landlord to prove the existence of the damage or loss, and that it stemmed directly from a violation of the Act, regulation, or tenancy agreement on the part of the Tenants. Once that has been established, the Landlord must then provide evidence that can verify the value of the loss or damage.

Finally, it must be proven that the Landlord did what was reasonable to minimize the damage or losses that were incurred.

With respect to the Landlord's claim for \$3,704.00 for unpaid rent due on May 1 and June 1, 2022, I find there is sufficient evidence before me to grant the relief sought. The order of possession granted on April 6, 2022 was to be effective on June 30, 2022. Until then, the rights and obligations of the parties under the Act and the tenancy agreement continued. However, I find the Tenants vacated without notice on or about May 13, 2022. KD also acknowledged that rent was not paid as alleged. The Landlord is granted a monetary award of \$3,704.00.

With respect to the Landlord's claim for \$178.25 to replace a broken bathroom light, I find there is insufficient evidence before me to grant the relief sought. Although the Landlord submitted a receipt for the purchase, he did not submit photographic evidence of the damaged cover, and the move-out condition inspection makes no reference to a damaged cover. This aspect of the Landlord's claim is dismissed.

With respect to the Landlord's claim for \$107.19 to replace floor registers, I find there is sufficient evidence before me to grant the relief sought. Photographs depicting the damage and a receipt for replacements were submitted into evidence. In addition, KD acknowledged that some of the floor registers were drilled into place during the tenancy. The Landlord is granted a monetary award of \$107.19.

With respect to the Landlord's claim for \$239.00 to replace a broken microwave, I find there is sufficient evidence before me to grant the relief sought. The Landlord's claim was supported by a photograph of a microwave with a broken handle and a receipt for the purchase. The damage was also noted on the move-out condition inspection. I accept the Landlord's testimony that the microwave did not work. I do not accept KD's suggestion that the damage was caused by electrical and humidity issues. The Landlord is granted a monetary award of \$239.00.

With respect to the Landlord's claim for \$145.51 to replace bathroom lightbulbs, I find there is sufficient evidence before me to grant the relief sought. I accept the Landlord's evidence that the correct bulbs were installed at the beginning of the tenancy, but that many were missing or were incorrect at the end of the tenancy. This aspect of the

Landlord's claim was supported by photographic evidence, receipts for the purchase of light bulbs, and notations on the move-out condition inspection. KD also acknowledged that some of the bulbs were removed during the tenancy and were not replaced. The Landlord is granted a monetary award of \$145.51.

With respect to the Landlord's claim for \$53.80 to replace a damaged smoke detector, I find there is sufficient evidence before me to grant the relief sought. I accept the Landlord's evidence which included a photograph of the smoke detector without a cover and a receipt for the replacement. The smoke detector was also referenced in the move-out condition inspection. I do not accept KD's testimony that the smoke detector never had a cover. The Landlord is granted a monetary award of \$53.80.

With respect to the Landlord's claim for \$96.27 to replace doorknobs, I find there is sufficient evidence before me to grant the relief sought. The Landlord's evidence, which I accept, was supported by photographs depicting bent and damaged doorknobs, which I find was beyond reasonable wear and tear. The doorknobs were also referenced on the move-out condition inspection. The Landlord also submitted a receipt for the purchase. I find there is insufficient evidence before me to conclude the doorknobs were original to the property or were of poor quality as suggested by KD. As a result, the Landlord is granted a monetary award of \$96.27.

With respect to the Landlord's claim for \$279.41 to replace kitchen blinds, find there is insufficient evidence before me to grant the relief sought. The Landlord submitted photographs of what appears to be food on the blinds and a receipt for the purchase of a replacement. Although the move-out condition inspection indicates the kitchen blinds were "full of food", I find there is insufficient evidence before me to conclude that the blinds could not have been cleaned rather than replaced. This aspect of the Landlord's claim is dismissed.

With respect to the Landlord's claim for \$31.90 to replace four bulbs on the ceiling fan above the entry, I find there is sufficient evidence before me to grant the relief sought. I accept the Landlord's evidence which included a receipt for the purchase of light bulbs. I also note the move-out condition inspection referred to missing light bulbs. I also accept KD's testimony confirming that he may have put in the wrong bulbs. As a result, the Landlord is granted a monetary award for \$31.90.

With respect to the Landlord's claim for \$147.06 to replace the kitchen faucet, I find there is insufficient evidence before me to grant the relief sought. While I accept the move-out condition inspection noted a "loose" tap, I find there is insufficient evidence before me to conclude that the tap could not have been repaired without incurring the cost of a replacement. This aspect of the Landlord's application is dismissed.

With respect to the Landlord's claim for \$430.00 for carpet cleaning, the Landlord acknowledged the carpet was not cleaned. This aspect of the Landlord's claim is dismissed.

With respect to the Landlord's claim for \$3,923.92 to replace carpet in the rental unit, I find there is sufficient evidence before me to grant the relief sought. I accept that the carpet was replaced shortly before the tenancy began and that only two stains were noted during the move-in condition inspection. I also accept that the amount sought reflects only one-half of the cost of the carpet replacement and that the Landlord incurred this cost. I do not accept the submission of TR who suggested the photographs submitted reflect "regular wear" in high traffic areas. The Landlord is granted a monetary award of \$3,923.92.

With respect to the Landlord's claim for \$1,500.00 to repair nail holes and water damage in the oak kitchen cabinets, the Landlord confirmed the damage was not repaired due to cost. As a result, I find I am unable to determine the value of the Landlord's loss. However, Policy Guideline #16 confirms that "nominal damages" can be awarded where no significant loss has been proven, but it has been proven that there has been an infraction of a legal right. In this case, I accept that the Tenants damaged the kitchen cabinets during the tenancy. This finding is supported by the condition inspections and photographic evidence submitted. The Landlord is granted nominal damages of \$100.00.

With respect to the Landlord's claim for \$36.17 related to service of documents on the Tenants, I decline to award recovery of service costs. This aspect of the Landlord's application is dismissed.

With respect to the Landlord's claim for \$9.07 to replace potting soil he stated was present at the beginning of the tenancy, I find there is insufficient evidence before me to grant the relief sought. I find it is reasonable for the Tenants to have removed potting soil over the course of a tenancy that lasted more than 9-1/2 years. This aspect of the Landlord's application is dismissed.

With respect to the Landlord's claim for \$124.25 for the cost to replace vertical blinds in the living room, I find there is insufficient evidence before me to grant the relief sought. I also note there is some ambiguity regarding what has been claimed – vertical blinds or a valance. I accept the evidence of KD who testified that the blinds were always there and that the missing valance fell off during the tenancy. This aspect of the Landlord's application is dismissed.

With respect to the Landlord's claim for \$80.13 for a bug screen repair kit, I find there is insufficient evidence before me to grant the relief sought. The move-in and move-out condition inspection reports do not refer to damage to bug screens. This aspect of the Landlord's application is dismissed.

With respect to the Landlord's claim for \$6,000.00 to repaint the interior of the rental unit, I find there is insufficient evidence before me to grant the relief sought. Although KD acknowledged the interior of the rental unit was painted during the tenancy, the Landlord did not provide receipts in support of the value of the loss. However, Policy Guideline #16 confirms that "nominal damages" can be awarded where no significant loss has been proven, but it has been proven that there has been an infraction of a legal right. In this case, I accept that the Tenants painted parts of the rental unit a different colour without the Landlord's authorization. Therefore, I grant the Landlord nominal damages of \$100.00.

With respect to the Landlord's claim for \$500.00 for depreciation due to spray-painted graffiti on the interior of the garage door, I find there is insufficient evidence before me to grant the relief sought. The Landlord did not provide any calculation of the alleged depreciation related to the graffiti. However, Policy Guideline #16 confirms that "nominal damages" can be awarded where no significant loss has been proven, but it has been proven that there has been an infraction of a legal right. In this case, I accept that graffiti was spray-painted on the interior of the garage door during the tenancy, which was supported by the condition inspection reports and the photographic evidence submitted.

Therefore, although I am unable to determine the precise value of the loss, I grant the Landlord nominal damages of \$100.00.

Having been successful, I find the Landlord is entitled to recover the \$100.00 filing fee paid to make the Application. I also find it is appropriate to permit the Landlord to retain the security deposit in partial satisfaction of the Landlord's claims.

Pursuant to section 67 of the Act, I find the Landlord is entitled to a monetary order in the amount of \$7,926.59, which has been calculated as follows:

Claim	Award
Unpaid rent:	\$3,704.00
Bathroom light:	\$0
Floor registers:	\$107.19
Microwave:	\$239.00
Bathroom lightbulbs:	\$145.51
Smoke detector:	\$53.80
Doorknobs:	\$96.27
Kitchen blinds:	\$0
Ceiling fan lightbulbs:	\$31.90
Kitchen faucet:	\$0
Carpet cleaning:	\$0
Carpet replacement:	\$3,923.92
Kitchen cabinet damage (nominal):	\$100.00
Document service:	\$0
Potting soil:	\$0
Vertical blinds/valance:	\$0
Bug screen repair kit:	\$0
Interior painting (nominal):	\$100.00
Garage door graffiti (nominal):	\$100.00
Filing fee:	\$100.00
LESS security deposit held:	(\$775.00)
TOTAL:	\$7,926.59

Conclusion

The Landlord is granted a monetary order in the amount of \$7,926.59. The order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Residential Tenancy Act.

Dated: February 23, 2023

Residential Tenancy Branch